

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK DAVID CHANLEY,

Defendant,

2:07-cr-150-RCJ-RJJ

REPORT & RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

This matter is before the Court on Defendant, Mark David Chanley's Motion to Suppress Statements of the Defendant Made at His Home On or About May 1, 2007 (#44).

The Court having reviewed the Motion (#44), the Response (#45), the Reply (#46), Defendant's Ex Parte Declaration (#48) and having heard the argument of counsel at two separate hearings makes the following findings:

1. On December 12, 2008, Defendant Mark David Chanley filed a Motion to Suppress Statements (#44) seeking to suppress statements allegedly made by Defendant Chanley on May 1, 2007.
2. After review of the Motion (#44), the Response (#45) and the Reply (#46), the Court held a status hearing and subsequently ordered defendant to file an affidavit under seal regarding the alleged statements.
3. On January 15, 2009, Defendant filed an Ex Parte Declaration (#48) and upon review, the Court scheduled an evidentiary hearing.

1 4. At the evidentiary hearing held February 6, 2009, Assistant United States Attorney
2 Nancy Koppe advised the court that the Government would not be using any
3 statements allegedly made by Defendant Chanley.

4 Good cause appearing therefore,

5 **RECOMMENDATION**

6 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that Defendant,
7 Mark David Chanley's Motion to Suppress Statements of the Defendant Made at His Home On
8 or About May 1, 2007 (#44) be **GRANTED IN PART and DENIED IN PART**.

9 IT IS FURTHER RECOMMENDED that Defendant, Mark David Chanley's Motion to
10 Suppress Statements of the Defendant Made at His Home On or About May 1, 2007 (#44) be
11 **GRANTED as to the alleged statements as set forth in the Ex Parte Declaration (#48) at**
12 **pages 3-4.**

13 IT IS FURTHER RECOMMENDED that Defendant, Mark David Chanley's Motion to
14 Suppress Statements of the Defendant Made at His Home On or About May 1, 2007, (#44) be
15 **DENIED AS TO ALL OTHER REQUESTS.**

16 **NOTICE**

17 Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and
18 Recommendation must be in writing and filed with the Clerk of the Court on or before February
19 25, 2009. The Supreme Court has held that the courts of appeal may determine that an appeal has
20 been waived due to the failure to file objections within the specified time. Thomas v. Arn, 474
21 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also held that (1) failure to
22 file objections within the specified time and (2) failure to properly address and brief the
23 objectionable issues waives the right to appeal the District Court's order and/or appeal factual
24 issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991); Britt
25 v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

26 DATED this 11th day of February, 2009.

27
28 
ROBERT J. JOHNSTON
United States Magistrate Judge